

National Labor Relations Board

§ 102.172

Subpart V—Debt Collection Procedures By Federal Income Tax Refund Offset

SOURCE: 62 FR 55166, Oct. 23, 1997, unless otherwise noted.

§ 102.168 Federal income tax refund offset; purpose and scope.

The regulations in this subpart specify the Agency procedures that will be followed in order to implement the Federal income tax refund offset procedures set forth in 26 U.S.C. 6402(d) of the Internal Revenue Code (Code), 31 U.S.C. 3720A, and 301.6402-6 of the Treasury Regulations on Procedure and Administration (26 CFR 301.6402-6). This statute and the implementing regulations of the Internal Revenue Service (IRS) at 26 CFR 301.6402-6 authorize the IRS to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the United States. The regulations apply to past-due legally enforceable debts owed to the Agency by individuals and business entities. The regulations are not intended to limit or restrict debtor access to any judicial remedies to which he or she may otherwise be entitled.

§ 102.169 Definitions.

(a) *Tax refund offset* refers to the IRS income tax refund offset program operated under authority of 31 U.S.C. 3720A.

(b) *Past-due legally enforceable debt* is a delinquent debt administratively determined to be valid, whereon no more than 10 years have lapsed since the date of delinquency (unless reduced to judgment), and which is not discharged under a bankruptcy proceeding or subject to an automatic stay under 11 U.S.C. 362.

(c) *Individual* refers to a taxpayer identified by a social security number (SSN).

(d) *Business entity* refers to an entity identified by an employer identification number (EIN).

(e) *Taxpayer mailing address* refers to the debtor's current mailing address as obtained from IRS.

(f) *Memorandum of understanding* refers to the agreement between the Agency and IRS outlining the duties and responsibilities of the respective

parties for participation in the tax refund offset program.

§ 102.170 Agency referral to IRS for tax referral effect; Agency responsibilities.

(a) As authorized and required by law, the Agency may refer past-due legally enforceable debts to the Internal Revenue Service (IRS) for collection by offset from any overpayment of income tax that may otherwise be due to be refunded to the taxpayer. By the date and in the manner prescribed by the IRS, the Agency may refer for tax refund offset past-due legally enforceable debts. Such referrals shall include the following information:

(1) Whether the debtor is an individual or a business entity;

(2) The name and taxpayer identification number (SSN or EIN) of the debtor who is responsible for the debt;

(3) The amount of the debt;

(4) A designation that the Agency is referring the debt and (as appropriate) Agency account identifiers.

(b) The Agency will ensure the confidentiality of taxpayer information as required by IRS in its Tax Information Security Guidelines.

(c) As necessary, the Agency will submit updated information at the times and in the manner prescribed by IRS to reflect changes in the status of debts or debtors referred for tax refund offset.

(d) Amounts erroneously offset will be refunded by the Agency or IRS in accordance with the Memorandum of Understanding.

§ 102.171 Cost shifting.

Costs incurred by the Agency in connection with referral of debts for tax refund offset will be added to the debt and thus increase the amount of the offset. Such costs may include administrative costs and attorneys fees.

§ 102.172 Minimum referral amount.

The minimum amount of a debt otherwise eligible for Agency referral to the IRS is \$25 for individual debtors and \$100 for business debtors. The amount referred may include the principal portion of the debt, as well as any accrued interest, penalties, administrative cost charges, and attorney fees.